



# PROPOSED RULE MAKING

**CR-102 (June 2004)**

(Implements RCW 34.05.320)

Do **NOT** use for expedited rule making

Agency: **Department of Ecology** AO# 04-07

<input checked="" type="checkbox"/> Preproposal Statement of Inquiry was filed as WSR <u>04-23-039</u> ; or	<input type="checkbox"/> Original Notice
<input type="checkbox"/> Expedited Rule Making--Proposed notice was filed as WSR _____; or	<input checked="" type="checkbox"/> Supplemental Notice to WSR <u>05-16-023</u>
<input type="checkbox"/> Proposal is exempt under RCW 34.05.310(4).	<input type="checkbox"/> Continuance of WSR

Title of rule and other identifying information: (Describe Subject)

This rule making will adopt a new rule, Chapter 173-333 WAC – Persistent Bioaccumulative Toxins Regulation, that will establish Ecology's process and procedures to address the subject of persistent bioaccumulative toxic substances.

This rule is being re-filed, as a result of comments received, which resulted in changes made to the original proposal.

Hearing location(s): **Seattle**

**St. Benedict School**  
4811 Wallingford Avenue North  
Seattle, WA 98103

Date: **November 9, 2005** Time: **7:00 pm**

Submit written comments to:

Name: **Mike Gallagher, PBT Coordinator**

Address: **Dept. of Ecology**

**PO Box 47600**

**Olympia, WA 98504**

e-mail **mgal461@ecy.wa.gov**

fax **(360)407-6884** by **November 15, 2005**

Assistance for persons with disabilities: Contact

**Joan Letourneau** by **October 15, 2005**

TTY **(800) 833-6388** or **(360) 407-6764**

Date of intended adoption: **December 15, 2005**

(Note: This is **NOT** the effective date)

Purpose of the proposal and its anticipated effects, including any changes in existing rules:

The 2004 Legislature, and Governor Locke, in Executive Order 04-01, directed the Department of Ecology to establish, through rule, specific criteria for use in identifying persistent, toxic chemicals (PBTs) that pose human health or environmental impacts in Washington State, and a clear process for developing chemical action plans to address those impacts.

The purpose of this re-filing is for Ecology to propose new draft rule language representing necessary changes based on public comments received between June 1 – July 29, 2005.

Reasons supporting proposal:

PBTs are long-lasting chemicals that break down very slowly when released into the environment. As PBTs move up the food chain, they increase in concentration and they can build up in the tissues of animals and people. Exposure to PBTs has been linked to a wide range of toxic effects in fish, wildlife, and humans, including effects on the nervous system, reproductive and developmental problems, immune-response suppression, cancer, and endocrine disruption. This rule helps the Department of Ecology set its internal priorities in addressing PBTs.

Statutory authority for adoption: : **Chapter 276 2004 Laws PV**  
**and Chapter 70.105 RCW (Hazardous Waste Management)**

Statute being implemented: Chapters 70.94, 90.48, 49.70, 90.52, 70.105, 70.95C, and 70.105D RCW.

Is rule necessary because of a:

Federal Law?

☐ Yes ☒ No

Federal Court Decision?

☐ Yes ☒ No

State Court Decision?

☐ Yes ☒ No

If yes, CITATION:

## CODE REVISER USE ONLY

CODE REVISER'S OFFICE  
STATE OF WASHINGTON  
FILED

SEP 29 2005

TIME 3:49 AM  
WSR 05-20-043

DATE

9/29/05

NAME (type or print)

**Polly Zehm**

SIGNATURE

*Polly Zehm*

TITLE **Deputy Director**

(COMPLETE REVERSE SIDE)

**Agency comments or recommendations, if any, as to statutory language, implementation, enforcement, and fiscal matters:**

Ecology created an external rule advisory committee, involving business associations, government associations, environmental and public health advocates, and other community groups to provide input in the development of rule language. This advisory committee met six times between August – December 2004 in all-day meetings to provide input and recommendations to Ecology as draft rule language was being developed. Ecology will also develop a focus sheet and maintain our current PBT web site (<http://www.ecy.wa.gov/programs/eap/pbt/rule/index.html>) regarding PBT rule-making activities. Ecology will hold one formal public hearing on the draft PBT rule proposal. For the rule re-filing, there will be a 30-day public comment period (October 19 – November 18, 2005) and one formal public hearing on November 9, 2005 in Seattle.

**Name of proponent:** (person or organization)

**Department of Ecology**

- ☐ Private  
☐ Public  
☒ Governmental

**Name of agency personnel responsible for:**

Name	Office Location	Phone
Drafting..... <b>Michael J. Gallagher</b>	<b>Ecology HQ – PO Box 47600, Olympia, WA 98504</b>	<b>(360) 407-6868</b>
Implementation.... <b>Michael J. Gallagher</b>	<b>Ecology HQ – PO Box 47600, Olympia, WA 98504</b>	<b>(360) 407-6868</b>
Enforcement.....N/A	N/A	( )

**Has a small business economic impact statement been prepared under chapter 19.85 RCW?**

☐ Yes. Attach copy of small business economic impact statement.

A copy of the statement may be obtained by contacting:

Name:

Address:

phone ( ) \_\_\_\_\_

fax ( ) \_\_\_\_\_

e-mail \_\_\_\_\_

☒ No. Explain why no statement was prepared.

**The PBT Rule is a procedural rule. This rule does not impose a cost on business. There is no cost to a regulated entity as a result of an agency “putting something on an internal list.” Therefore, a small business economic impact statement does not need to be prepared for this rule proposal.**

**Is a cost-benefit analysis required under RCW 34.05.328?**

☐ Yes A preliminary cost-benefit analysis may be obtained by contacting:

Name:

Address:

phone ( ) \_\_\_\_\_

fax ( ) \_\_\_\_\_

e-mail \_\_\_\_\_

☒ No: Please explain:

**The PBT Rule is an internal procedural rule directed to the Department of Ecology. This rule development *in itself* does not impose a cost on business. The rule will establish a list and a process for treating that list, but it won't actually direct any specific action that has specific impacts. Based on this decision, the need for a cost benefit analysis and a small business economic impact statement is not necessary or appropriate *within the rule itself*.**